

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking Regarding  
the Implementation of the Suspension of  
Direct Access Pursuant to Assembly Bill  
1X and Decision 01-09-060.

Rulemaking 02-01-011  
(Filed January 9, 2002)

**COMMENTS OF THE CALIFORNIA CLEAN DG COALITION  
REGARDING OPINION GRANTING  
PETITION FOR MODIFICATION OF DECISION 03-04-030:  
OPINION ON COST RESPONSIBILITY SURCHARGE MECHANISMS  
FOR CUSTOMER GENERATION DEPARTING LOAD**

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April 19, 2007

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), the California Clean DG Coalition (CCDC) files these Comments Regarding the Proposed Opinion Granting Petition for Modification of Decision (D.) 03-04-030: Opinion on Cost Responsibility Surcharge Mechanisms for Customer Generation Departing Load (Proposed Opinion).

***1. Introduction.***

CCDC is an ad hoc group interested in promoting the ability of distributed generation system manufacturers, distributors, marketers and investors, and electric customers to deploy DG.<sup>1</sup> CCDC has been an active participant with respect to the customer generation departing load issues that have been addressed in R.02-01-011.<sup>2</sup>

In its Petition for Modification of D.03-04-030, CCDC requests that the Commission modify D.03-04-030 to increase the cost responsibility surcharge (CRS) exception eligibility limit for small clean distributed generation (DG) systems to include those that are 5 megawatts (MW) or less, with the exception applying to the total eligible capacity. CCDC's request is

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<sup>1</sup> CCDC is currently comprised of Capstone Turbine Corporation, Caterpillar, Inc., Chevron Energy Solutions Company, Cummins, Inc., Cummins West, Inc., DE Solutions, Inc., Hawthorne Power Systems, Holt of California, Johnson Matthey, Johnson Power Systems, Northern Power Systems, Peterson Power Systems, Quinn Power Systems, RealEnergy, LLC, Simmax Energy, Solar Turbines Incorporated, Tecogen, Inc., and VRB Power Systems Inc.

<sup>2</sup> CCDC was previously known as the Joint Parties Interested in Distributed Generation/Distributed Energy Resources.

based on recent technological advances in the field of CHP systems, and anticipated corresponding improvements in economies of scale.

The State of California has long supported DG and CCDC appreciates the work the Commission has undertaken to encourage DG. By granting, in part, CCDC's Petition for Modification, the Commission takes a step toward reducing barriers to market entry for DG, consistent with State and Commission policy calling for increased installation of clean DG, including combined heat and power systems.

The Proposed Opinion grants CCDC's Petition to Modify in part, authorizing a 1 MW exception from CRS for all clean DG units not exceeding 5 MW in capacity. CCDC asks the Commission to consider modifying the Proposed Opinion to grant a CRS exception for small clean DG for the total unit size for systems not exceeding 5 MW in capacity. The small size of these systems and the benefits of DG support a finding that such an exception will not result in a "noticeable impact" on collections of the DWR Bond Charge and, therefore, will not shift costs to other customers. If the Commission determines it appropriate to limit the CRS exception to 1 MW for all clean DG units not exceeding 5 MW in capacity, CCDC asks that the Commission modify the Proposed Opinion to provide that the Commission will consider increasing the level of the exception once the cost-benefit phase of the DG Rulemaking is complete (R.06-03-004).

**2. *An Increase in CRS Exception Eligibility for Small, Clean DG Systems 5 MW or Less Will Not Shift Costs to Other Customers.***

The Proposed Opinion correctly recognizes that technological advances have occurred since D.03-04-030 was issued that have expanded the market reach of DG in the 1 MW to 5 MW size range and have the potential to contribute to economies of scale. (Proposed Opinion, p. 6.). The Proposed Opinion also correctly notes that increasing the size limit of DG projects eligible for CRS exceptions to 5 MW is consistent with other DG incentives, including the Self-Generation Incentive Program and the standby charge waivers enacted by SB 28. (*Id.*; Cal. Pub. Util. Code §§ 353.1, 33.3, 353.13.)

The Proposed Opinion also states the concern that there is not sufficient "empirical support to convince [the Commission] that extending the CRS beyond 1 MW" would not "noticeably impact" collections of the DWR Bond Charge. (Proposed Opinion, p. 7.) Additionally, the Proposed Opinion indicates that because the cost-benefit phase of the DG Rulemaking is not complete, the Commission cannot determine the cost impacts of increasing

the CRS exception beyond 1 MW. (*Id.*) While the Proposed Opinion increases the size limit of DG projects eligible for the CRS exception to include those that do not exceed 5 MW, the Proposed Opinion declines to increase the exception beyond 1 MW, “in the interests of avoiding cost shifting and maintaining support for collection of DWR bond charges.” (*Id.*)

CCDC respectfully suggests that the Proposed Opinion’s concerns regarding cost shifting are overstated. Current incentives, including the existing CRS exceptions, have not resulted in a DG “gold rush.” Small DG load is de minimis compared to the IOUs’ total loads. Further, even with the technological advances described in CCDC’s Petition to Modify, it cannot be assumed that all new small DG installations will be 5 MW in size. They will likely occur in a range of sizes, from less than 1 MW to 5 MW. It is also worth emphasizing that customers who install DG typically also remain customers of the local IOU, which means they continue to pay applicable CRS components in their IOU rates.

CCDC also observes that while the Proposed Opinion states that it interprets “any system over 1 MW in size as constituting a ‘larger system’ that could noticeably impact the collection of DWR bond charges” (Proposed Opinion, p. 7), it does not reconcile the inconsistency between that statement and the Commission’s stated intent in D.03-04-030 to revisit exceptions from *all* CRS components for small clean DG over 1 MW (D.03-04-030, p. 46 and Conclusion of Law 7.). To resolve this inconsistency, CCDC submits the Proposed Opinion should clarify that clean DG systems that do not exceed 5 MW are not “larger systems” for purposes of D.03-04-030 and its implementation and, therefore, are exempt from CRS up to their total eligible capacity.

In order to accurately address the de minimis effect, if any, of small DG CRS exceptions on DWR Bond Charge collections and the long-recognized benefits of small clean DG, and to resolve the inconsistency described above, CCDC requests that the Proposed Opinion be revised to grant a CRS exception for small clean DG for the total unit size for systems that do not exceed 5 MW in capacity.

### **3. Conclusion.**

CCDC reiterates its appreciation for the Commission’s efforts to date to encourage and support DG. As shown in CCDC’s Petition to Modify and acknowledged in the Proposed Opinion, during the three years since D.03-04-030 was issued, developments in technologies have occurred, which likely will result in economies of scale and which justify increasing the CRS exception eligibility size limit for small clean DG. Increasing the CRS exception eligibility

limit for small clean DG systems to include those that are 5 MW or less in size will not result in cost shifting and will further the State's goal of encouraging "the development of environmentally-sound combined heat and power resources and distributed generation projects." (Energy Action Plan II, pp. 7-8 (September 21, 2005).)

The Proposed Opinion grants CCDC's Petition to Modify in part, authorizing a 1 MW exception from CRS for all clean DG units not exceeding 5 MW in capacity. CCDC asks the Commission to modify the Proposed Opinion to grant a CRS exception for small clean DG for the total unit size for units not exceeding 5 MW in capacity. The small size of these units and the benefits of DG support a finding that such an exception will not result in a noticeable impact on collections of the DWR Bond Charge and, therefore, will not shift costs to other customers. If the Commission determines it appropriate to limit the CRS exception to 1 MW for all clean DG units not exceeding 5 MW in capacity, CCDC asks that the Commission modify the Proposed Opinion to provide that the Commission will consider increasing the level of the exception once the cost-benefit phase of the DG Rulemaking is complete.

DATED: April 19, 2007

DAY CARTER & MURPHY LLP

By: /s/ Ann L. Trowbridge  
Ann L. Trowbridge

## **CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the on **COMMENTS OF THE CALIFORNIA CLEAN DG COALITION REGARDING OPINION GRANTING PETITION FOR MODIFICATION OF DECISION 03-04-030: OPINION ON COST RESPONSIBILITY SURCHARGE MECHANISMS FOR CUSTOMER GENERATION DEPARTING LOAD** April 19, 2007, on all known parties to proceeding R.02-01-011 via electronic mail to those whose addresses are available and via U.S. mail to those who do not have an electronic address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 19th day of April, 2007, at Sacramento, California.

/s/ Christine J. Lambos  
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